

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

Crl. Rev. Pet.No. 456 of 2007()

CRA.33/2004 of ADDL.SESIONS COURT (FAST TRACK COURT NO.III),
PALAKKAD

CC.562/2002 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II,
PALAKKAD

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REVN. PETITIONER: APPELLANT/ACCUSED:

A. BASHEER, S/O.ALI, RESIDING AT
35/258, POOKKARATHOTTAM,
OLAVAKKODE P.O., PALAKKAD.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.SREEKANTH.K.R
SRI.JIBU P THOMAS
SRI.SUNIL J.CHAKKALACKAL

RESPONDENTS: COMPLAINANT:

1. THE STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. P.S. DILEEP KUMAR, S/O.KRISHNANKUTTY
NAIR, RESIDING AT SPRING VALLEY,
PUTHYAPALAM, KALPATHY, PALAKKAD.

BY ADV. SRI. C.M. KAMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 07/02/2007, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 456 OF 2007

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Dated this the 7th day of February 2007

ORDER

The revision petitioner stands convicted for the offence under section 138 of the Negotiable Instruments Act and sentenced as modified by the order of the Sessions Judge to undergo simple imprisonment of 15 days and to pay a sum of Rs. 1,25,000/- as compensation under section 357(3) Cr.P.C and in default to undergo simple imprisonment for a further period of 45 days. The case of the revision petitioner is that he has borrowed only 20,000/- from the brother of the complainant and that he repaid the same and the blank cheques issued as security has been misused by him. The complainant has admitted that he has no close contact with the revision petitioner is unlikely to lend a sum of Rs. 1,25,000/- as alleged. The defence also got examined DW1, the brother of the complainant. DW1 did not support the accused. It is also contended that notice envisaged under section 138 was not served. Both the courts below rejected the above plea. The Sessions Court has specifically noted that with respect to the notice returned as unclaimed the service of intimation is noted on

the postal cover. Hence I find that the ratio of decision in **Chacko v. Kurian** (2006 (3) KLT 694) in the instant case is not applicable. The evidence of PW1, the complainant and the documents produced establish the case set up that the cheque was dishonoured, notice was sent in time and the proceedings were initiated also within the statutory stipulated time limits. I find no ground to admit the revision petition.

2. All the same, considering the plea of the counsel for the revision petitioner that he is unable to remit the amount soon, he is granted six months time to pay. He is also pleaded for modifying the sentence. The same is modified to imprisonment till rising of the court and to pay a compensation as ordered by the court below. He shall appear before the Judicial First Class Magistrate-II, Palakkad on 08.08.2007 to receive sentence.

The Crl. R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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CRL. R.P. NO. 456 OF 2007

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